

Application No. 09/921,097
Amendment dated January 27, 2010
Reply to Office Action of August 27, 2009

REMARKS

Applicant amended claims 1, 2, 16, 17, 30-32, 43, 44, 55, 59, 62, 63, 66-69, 72, 76, 80, 84, 88 and 92 to further define Applicant's claimed invention. The amendment to claims 1, 16, 31, 43, 55 and 59 is supported in the specification at least on page 2, lines 14-19; page 13, lines 13-14; and Fig. 4. The amendment to claims 2, 17, 30, 32, 44, 62, 63 and 66-69 is supported in the specification at least on page 6, lines 21-22. The amendment to claims 72, 76, 80, 84, 88 and 92 is supported in the specification at least on page 2, lines 14-19.

In the Office Action, the Examiner rejected claims 1-6, 8, 10-21, 23, 25-33, 35, 37-42, 66, 67, and 71-82 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,483,986 to Krapf ("Krapf") in view of U.S. Patent No. 7,017,173 to Armstrong ("Armstrong"); rejected claims 43-45, 47, 49-54, 64, 65, 68, and 83-86 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong in view of U.S. Publication No. 2002/0007493 to Butler ("Butler"); and rejected claims 55, 56, 59-63, 69, 70, and 87-94 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,929,849 to Kikinis ("Kikinis") in view of Armstrong. These rejections are addressed below.

I. The rejection in view of Krapf and Armstrong

Applicant submits that the rejection of claims 1-6, 8, 10-21, 23, 25-33, 35, 37-42, 66, 67, and 71-82 under 35 U.S.C. § 103(a) as being unpatentable over Krapf in view of Armstrong has been overcome at least for the reasons set forth below.

A. Not all claim elements are disclosed or suggested by the cited art

Independent claims 1, 16, and 31, as now amended, each recite a method including "interacting, during the streaming of the video, with the interface link" and interrupting, at the remote location, the streaming of the video "in response to the interacting with the interface link." Neither Krapf nor Armstrong, taken alone or in proper combination, disclose or suggest such a method.

Krapf discloses that "system 1 includes a personal video recorder 2 connected through a data line 18 to a display 4" and that "upon selection by a viewer of the

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alternative subject matter data 14, the personal video recorder 2 stores the streaming video data." (Krapf, col. 3, lines 33-35 and 50-52 (emphasis added)). Accordingly, in Krapf the streaming of the video continues regardless of any interaction with the interface link by the user.

Armstrong discloses interrupting a content stream "via, for example, pressing a pause or stop button on a remote control device" (col. 2, lines 15-17, and col. 11, lines 30-31), then presenting an advertising object with which a user may interact (col. 11, lines 44-45 and col. 12, lines 40-43). Thus Armstrong, like Krapf, also fails to disclose or suggest interrupting, at the remote location, the streaming of the video "in response to the interacting with the interface link." As neither Krapf nor Armstrong disclose or suggest at least this feature, Applicant submits that independent claims 1, 16 and 31 are patentable over Krapf and Armstrong, whether alone or in proper combination.

Moreover, independent claims 1, 16 and 31, as now amended, recite "interacting, during the streaming of the video, with the interface link to access the ancillary content." Armstrong discloses interacting with a web link after the stream has been interrupted. (See Armstrong, Fig. 5, steps 502, 504 and 528). The interruption of the streaming video is not in response to the interacting with the interface link. Thus, Armstrong does not disclose interacting with an interface link as recited in claims 1, 16 and 31.

Additionally, independent claims 1 and 31, as now amended, recite streaming the video "over an Internet protocol-based network," and transmitting, "after interrupting at the remote location the streaming of the video," a user request for ancillary content. Independent claim 16, as now amended, recites streaming the video "over an Internet protocol-based network," and accessing, "after interrupting at the remote location the streaming of the video," the ancillary content by the user. Krapf discloses delivery of streaming video over a cable-based network 28, which may include a dish or antenna. (Krapf, col. 6, lines 9-15; Fig. 1). Krapf further discloses that system 1 may be connected to the Internet, but this is in relation to "alternative subject matter data 14" rather than the originally selected streaming video data. (Krapf, col. 8, lines 39-41).

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Armstrong discloses a cable-based system in which media is streamed between a cable head end 120 and a set-top box 142. (Armstrong, col. 3, lines 19-34; Fig. 1). A cable-based network, such as that taught by Krapf and Armstrong, is not an Internet protocol-based network. Thus, neither Krapf nor Armstrong disclose streaming the video over an Internet protocol-based network as recited in claims 1, 16 and 31. Additionally, Krapf fails to disclose transmitting or accessing a user request for ancillary content after interrupting the streaming of video data because: (1) the viewer interaction occurs prior to the storing of the video stream (col. 3, lines 50-52), and (2) there is no "interruption" of the video stream, only storing as set forth previously.

B. Modifying Krapf in view of Armstrong renders the personal video recorder of Krapf unsatisfactory for its intended purpose and changes its principle of operation

Applicant respectfully submits that the combination of Krapf and Armstrong is untenable because the proposed modification renders the personal video recorder of Krapf unsatisfactory for its intended purpose, and changes its principle of operation. As discussed above, Krapf discloses a system including a personal video recorder which records streaming video data, such as live TV, while the user watches alternative subject matter data on the display. Armstrong discloses pausing the delivery of streaming on-demand video data with a pause button on a remote control. Applicant submits that the Krapf personal video recorder cannot be modified with a pause button disclosed in Armstrong for at least two reasons. First, the delivery of "live TV" cannot be paused at the remote location by a user. Secondly, the intended purpose of the Krapf system is to record streaming live TV data with a personal video recorder while user-selected advertising content is displayed to the user. (See, e.g., Krapf, Abstract, lines 1-4). If the delivery of streaming live TV data could be interrupted in Krapf, then the personal video recorder would be useless. Thus, Applicant respectfully submits that the Examiner's proposed modification of Krapf would render the Krapf personal video recorder unsatisfactory for its intended purpose, and would change its principle of operation. (See MPEP § 2143.01(V), "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose," page 2100-140, col. 2, Rev. 6 (Sept.

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2007); and MPEP § 2143.01(VI), "The Proposed Modification Cannot Change The Principle Of Operation Of A Reference," page 2100-141, col. 1, Rev. 6 (Sept. 2007)).

Applicant submits that the Examiner's rejection of independent claims 1, 16, 31, and claims 2-6, 8, 10-15, 17-21, 23, 25-30, 32, 33, 35, 37-42, 66, 67, and 71-82 dependent from one of independent claims 1, 16, and 31 under 35 U.S.C. § 103(a) over Krapf in view of Armstrong has been overcome.

II. The rejection in view of Krapf, Armstrong and Butler

Independent claim 43, as now amended, recites a method including interrupting, at the remote location, the streaming of the video "in response to the interacting with the interface link." As set forth above, the combination of Krapf and Armstrong does not disclose or suggest this recitation. Nor do Krapf and Armstrong disclose streaming video "over an Internet protocol-based network" as recited in independent claim 43. The Examiner relied on Butler solely for the teaching of "displaying content based on timing specifications for the advantage of indicating times for displaying content relative to the video stream." (See Office Action, page 23, lines 10-12). Thus, Applicant submits that the proposed combination of Krapf and Armstrong with Butler does not disclose or suggest each and every recitation of Applicant's claimed invention as recited in independent claim 43. Moreover, Applicant submits that the proposed combination is untenable for the reasons set forth above under Section I(B).

In relation to Armstrong in particular, independent claim 43, as now amended, further recites "interacting, during the streaming of the video, with the interface link to access the ancillary content." Armstrong discloses interacting with a web link after the stream has been interrupted. (See Armstrong, Fig. 5, steps 502, 504 and 528). Thus, Armstrong does not disclose interacting with an interface link as recited in claim 43.

Applicant submits that the Examiner's rejection of independent claim 43 and claims 44, 45, 47, 49-54, 64, 68, and 83-86, dependent from independent claim 43 or claims dependent therefrom, under 35 U.S.C. § 103(a) over Krapf and Armstrong in view of Butler has been overcome.

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At the bottom of page 22 of the Office Action, the Examiner rejected claim 65 (dependent from independent claim 59) under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong in view Butler. However, Applicant respectfully notes that no explanation has been provided as to how the proposed combination renders the subject matter of claim 65 obvious as the reasoning set forth at the bottom of page 25 of the office action appears to be in view of a combination of references citing Kikinis rather than Krapf. Accordingly, Applicant respectfully submits that the rejection of claim 65 is not properly supported.

III. The rejection in view of Kikinis and Armstrong

Independent claim 55, as now amended, recites a method including interrupting the streaming of the video at the remote site "in response to the interacting with the interface link." Independent claim 59 recites a method including interrupting the streaming of the video "in response to the interacting with the link program." Neither Kikinis nor Armstrong, taken alone or in proper combination, disclose or suggest these features. Kikinis discloses manipulating a cursor to touch the region of emblem 57, then actuating a selection signal. (Kikinis, col. 7, lines 57-60). Thereafter, the TV display is suspended while a web page is displayed. (Kikinis, col. 8, lines 3-5). Kikinis does not disclose interrupting the streaming of video "in response to the interacting of the interface link" or "link program" as recited in independent claims 55 and 59, respectively, because the selection signal is actuated in response to the user touching the region of emblem 57.

Armstrong discloses interrupting a content stream (col. 11, lines 30-31), then presenting an advertising object with which a user may interact (col. 11, lines 44-45 and col. 12, lines 40-43). Thus, Armstrong also fails to disclose or suggest interrupting, at the remote location, the streaming of the video "in response to the interacting with the interface link." As neither Kikinis nor Armstrong disclose or suggest this feature, Applicant submits that independent claims 55 and 59 are patentable over Kikinis and Armstrong, whether alone or in proper combination.

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Moreover, independent claims 55 and 59, as now amended, recite streaming the video "over an Internet protocol-based network." Kikinis discloses delivery of video over a cable TV line 17. (Kikinis, col. 5, lines 34-41; Fig. 1). Armstrong discloses a cable-based system in which media is streamed between a cable head end 120 and a set-top box 142. (Armstrong, col. 3, lines 19-34; Fig. 1). A cable-based network, such as that taught by Kikinis and Armstrong, is not an Internet protocol-based network. Thus, neither Kikinis nor Armstrong disclose streaming the video over an Internet protocol-based network as recited in claims 55 and 59.

Independent claim 55 further recites accessing, "after interrupting at the remote location the streaming of the video," the commercial site. Kikinis fails to disclose accessing a commercial site after interrupting the streaming of video because: (1) the viewer interaction occurs prior to the suspension of the TV display (col. 8, lines 3-5), and (2) there is no "interruption" of the streaming of the video, only a suspension of the TV display (Id.).

In relation to Armstrong in particular, independent claim 55, as now amended, further recites "interacting, during the streaming of the video, with the interface link during the display of the video." Armstrong discloses interacting with a web link after the stream has been interrupted. (See Armstrong, Fig. 5, steps 502, 504 and 528). Thus, Armstrong does not disclose interacting with an interface link as recited in claim 55.

Applicant submits that the Examiner's rejection of independent claims 55 and 59 and claims 56, 60-63, 69, 70, and 87-94, dependent from one of independent claims 55 and 59 or claims dependent therefrom, under 35 U.S.C. § 103(a) over Kikinis in view of Armstrong has been overcome.

The Examiner rejected claims 7 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong and further in view of U.S. Patent No. 6,154,738 to Call ("Call"); rejected claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong and further in view of Call; rejected claim 46 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong, and Butler and further in view of Call; rejected claims 9 and 36 under 35 U.S.C. § 103(a) as

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being unpatentable over Krapf and Armstrong and further in view of U.S. Patent No. 6,184,878 to Alonso ("Alonso"); rejected claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong and further in view of Alonso; and rejected claim 48 under 35 U.S.C. § 103(a) as being unpatentable over Krapf and Armstrong, and Butler and further in view of Alonso. Applicant submits that the rejections of claims 7, 9, 22, 24, 34, 36, 46, and 48 are rendered moot at least because these claims depend from an allowable independent claim, or claims dependent therefrom.

Applicant submits that independent claims 1, 16, 31, 43, 55, and 59 are patentable and that dependent claims 2-15, 17-30, 32-42, 44-54, 56, and 60-94 dependent from independent claim 1, 16, 31, 43, 55, or 59, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,
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Dated: January 27, 2010

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